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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,171	02/12/2001	Sushma Pati	A-68957-1/RFT/RMS/BTC	2109

7590 05/13/2004
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EXAMINER

SMITH, CAROLYN L

ART UNIT PAPER NUMBER

1631

DATE MAILED: 05/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/782,171

Applicant(s)

PATI ET AL.

Examiner

Carolyn L Smith

Art Unit

1631

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 14, 16 and 19.

Claim(s) rejected: 1-4 and 6-20.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

Continuation of 2. NOTE: New claims 21-31 incorporate new subject matter that was not originally disclosed in the particular methods in amended independent claims 16 and 17 which is a new issue. For example, claim 21 now includes subject matter that was originally presented in claim 1 and claim 4 (now cancelled), but not originally in a method involving the subject matter of claim 16. Because the amendment (filed 4/30/04) has not been entered, all objections and rejections set forth in the final action, mailed 4/2/04, are maintained.

If the proposed amendment had been entered then the claim objections; 35 USC 112, first paragraph (NEW MATTER) rejections; and 35 USC 112, second paragraph rejections as stated in the FINAL action, mailed 4/2/04, would have been removed due to the cancellation of claims 1-15, 18, and 19. It is noted that new claim 22 would be objected to for failure to end in a period. In addition, if the proposed amendment had been entered, the 35 USC 103 (a) rejections would still be maintained for claims 17 and 20.

In particular, the rejection of claim 17 would be maintained under 35 USC 103 (a) as being unpatentable over Layne et al. (P/N 5,841,975) in view of Seilhamer et al. (WO 96/23078). Applicants state that to establish a prima facie case, three basic criteria must be met. This is acknowledged. Applicants state that the limitation in claim 17 referring to "good standing" as described in the specification, is not taught in the Layne et al. reference. This statement is found unpersuasive as the specification (page 7, lines 9-12) states "that the customer is in good standing (e.g., is registered and credit worthy)." It is noted that this recitation in the specification is only an example as denoted by the "e.g." terminology and is not a clear and concise definition of good standing. Therefore, the phrase "good standing" has been broadly and reasonably interpreted in the 35 USC 103(a) rejection using Layne et al. in view of Seilhamer et al.

The rejection of claims 17 and 20 would be maintained under 35 USC 103(a) as being unpatentable over Layne et al. (P/N 5,841,975) in view of Seilhamer et al. (WO 96/23078) and Pati et al. (WO 99/37755). Applicants state that a prima facie case has not been presented because the references fail to teach methods that include a step of verifying that the customer is in good standing. This statement is found unpersuasive as the specification (page 7, lines 9-12) states "that the customer is in good standing (e.g., is registered and credit worthy)." It is noted that this recitation in the specification is only an example as denoted by the "e.g." terminology and is not a clear and concise definition of good standing. Therefore, the phrase "good standing" has been broadly and reasonably interpreted in the 35 USC 103(a) rejection using Layne et al. in view of Seilhamer et al. and Pati et al.

Further consideration is required to determine whether new claims 21-31 would be rejected as being unpatentable over the prior art references.

Ardin H. Marschel
ARDIN H. MARSCHEL 5/11/04
PRIMARY EXAMINER